IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 31975 of 2005(F)

AGAINST THE ORDER DATED 28/06/2005 IN IA.4775/03 IN LAR.41/2003 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

MADHAVI, AGED 65,
W/O. KOTTOTHIL KUNJAPPU, NOW RESIDING IN THE ADDRESS NEAR RAJANA KALYANA MANDAPAM,
CHOWANNUR VILLAGE, DESOM, TALAPPILLY TALUK.

BY ADV. SRI.K.R.SACHIDANANDAN
SRI.P.VIJAYA BHANU
SRI.P.SANTHOSH (PODUVAL)

RESPONDENTS:
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1. ITTY ABRAHAM,
S/O. CHERUVATHUR ITTY MATHEW, MYLIPADAM DESOM,
CHEMBUKAVU VILLAGE, THRISSUR TALUK.

2. C.J. PAUL, S/O.CHERUVATHUR ITTY MATHEW,
MYLIPADAM DESOM, CHEMBUKAVU VILLAGE,
THRISSUR TALUK.(DIED)

3. THE DISTRICT COLLECTOR, THRISSUR.

4. THE SPECIAL TAHSILDAR,
L.A., THRISSUR MUNICIPALITY.

5. KUNNAMKULAM MUNICIPALITY,
KUNNAMKULAM.

ADDL.R6 TO R10 IMPLEADED :

6. C.ROSY PAUL, W/O.CHERUVATHUR PAUL,
MYLIPADAM DESOM, CHEMBUKAVU, THRISSUR.

7.GLADY PAUL C., D/O.LATE CHERUVATHUR PAUL AND
W/O.JOSE ELIYAS, THOPPIL KIDANGATH,
MYLIPADAM, THRISSUR.

8.MATHEW PAUL C., S/O.LATE CHERUVATHUR PAUL
MYLIPADAM DESOM, CHEMBUKAVU, THRISSUR.

9.GLORY PAUL C., D/O.LATE CHERUVATHUR PUAL AND
W/O.CHIRAKKEKKARAN JOSEPH, MYLIPADAM, THRISSUR.

10.JACOB PAUL C., S/O.-DO- -DO-

(IMPLEADED AS PER ORDER DT. 16.3.2007 IN IA.3870/07).

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.KRISHNAN NARAYANAN
SRI.JAI GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.31975/05

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 TRUE COPY OF IA NO.4775/03 IN LAR 41/03 DT. 12.8.2003 ON THE FILE OF SECOND ADDL. SUB COURT, THRISSUR DT. 12.8.2003.

EXT.P2 TRUE COPY OF THE OBJECTIONS SUBMITTED BY THE FIRST RESPONDENT DT. 1.12.2003.

EXT.P3 TRUE COPY OF THE ORDER PASSED IN IA NO.4775/03 IN LAR NO.41/03 DT. 28/6/05 ON THE FILE OF THE SECOND ADDL. SUB COURT, THRISSUR.

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

W.P.(C) No.31975 of 2005

Dated 30th October, 2007.

J U D G M E N T

Kurian Joseph, J.

The question to be decided in this case is whether an application under Order I Rule 10 of the Code of Civil Procedure is maintainable in a reference proceedings under Section 18 of the Land Acquisition Act. That issue is squarely covered against the petitioner by the decision of the Supreme Court in **Ambey Devi v. State of Bihar** (AIR 1996 Supreme Court 1513).

2. Sri.Santhosh, learned counsel for the petitioner made a persuasive submission that being an illiterate lady, some indulgence may be shown, particularly since the court was dealing with procedural matters. Though an attempt was made to invite our attention to several decisions of various High Courts, we are afraid, it may not be possible for us to consider that question, in view of the binding decision of the apex court. It is submitted that in any case, the petitioner has a remedy under Section 30 of the Land Acquisition Act. Needless to say, it will be

open to the petitioner to pursue that remedy before the District Collector. Without prejudice to such liberty, this writ petition is dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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